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Examiner: D. J. ChungGroup Art Unit: 2677Tel No: 571-272-7657Fax #: 571-273-8300FROM: J. B. KRAFTTel No: 512-473-2303

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Serial
Docket No. 10/728,165 Docket
Serial No. 09542003067 Atty: J. B. KRAFT
Applicant: Joshua G. Twait

☒ Transmittal Letter (2 copies)☒ ~~Preliminary Amendment~~ **RESPONSE**☐ Amendment AF☐ Ext. of Time☐ IDS Statement☐ Other ☐☐ Certificate of Facsimile☐ Notice of Appeal☐ Appeal Brief (3 copies)☐ Reply Brief☐ Change of Address

Deposit Acct. No.

09-0447Fees: Amendment ☐ Notice of Appeal ☐ Appeal Brief ☐ Other ☐

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: J. G. Twait

DOCKET NUMBER: A05920830627US1

Date: 9/16/05

Serial No.: 10/728,165

Filed: December 4, 2003

For: A COMPUTER DISPLAY SYSTEM FOR DYNAMICALLY MODIFYING STACKED AREA LINE GRAPHS TO CHANGE THE ORDER OR PRESENCE OF A SET OF STACKED AREAS IN THE GRAPH RESPECTIVELY REPRESENTATIVE OF THE PROPORTIONS CONTRIBUTED TO A TOTAL BY EACH OF A SET OF TIME DEPENDENT VARIABLES

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a Response in the above-identified Application.

☒ No additional fee is required. No claims have been added.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account 09-0447. A duplicate copy of this sheet is enclosed.

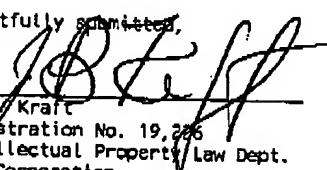
☒ Any additional fees required under 37 CFR §1.16 for the presentation of extra claims.

☒ Any patent application processing fees under 37 CFR §1.17.

Customer No. 32,329

Respectfully submitted,

By


J. B. Kraft
Registration No. 19,286
Intellectual Property Law Dept.
IBM Corporation
11400 Burnet Road - 4054
Austin, Texas 78758
(512) 473-2303

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: J. G. Twait

DOCKET NUMBER: AUS920030627US1

Date: 9/16/05

Serial No.: 10/728,165

Filed: December 4, 2003

For: A COMPUTER DISPLAY SYSTEM FOR DYNAMICALLY MODIFYING STACKED AREA LINE GRAPHS TO CHANGE THE ORDER OR PRESENCE OF A SET OF STACKED AREAS IN THE GRAPH RESPECTIVELY REPRESENTATIVE OF THE PROPORTIONS CONTRIBUTED TO A TOTAL BY EACH OF A SET OF TIME DEPENDENT VARIABLES

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X Any additional fees required under 37 CFR §1.16 for the presentation of extra claims.

X Any patent application processing fees under 37 CFR §1.17.

Customer No. 32,329

Respectfully submitted,

By J. B. Kraft
J. B. Kraft
Registration No. 19,326
Intellectual Property Law Dept.
IBM Corporation
11400 Burnet Road - 4054
Austin, Texas 78758
(512) 473-2303

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10/728,165

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 2677
: Examiner D. J. Chung
: Customer No. 32,329
Joshua G. Twait : Intellectual Property
Serial No: 10/728,165 : Law Department - 4054
Filed: 12/04/2003 : International Business
Title: A COMPUTER DISPLAY : Machines Corporation
SYSTEM FOR DYNAMICALLY : 11400 Burnet Road
MODIFYING STACKED AREA LINE : Austin, Texas 78758
GRAPHS TO CHANGE THE ORDER OR :
PRESENCE OF A SET OF STACKED :
AREAS IN THE GRAPH :
RESPECTIVELY REPRESENTATIVE :
OF THE PROPORTIONS :
CONTRIBUTED TO A TOTAL BY :
EACH OF A SET OF TIME :
DEPENDENT VARIABLES :
Date: 9/16/05 :

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence including the present Response and accompanying Transmittal letter is being transmitted via facsimile to USPTO, Group Art Unit 2677 at telephone number 571-273-8300, and to the attention of Examiner D. J. Chung on 9/16/05.

Janis E. Clements

Signature

Date 9/16/05

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AUS920030627US1

1

PATENT
10/728,165

RESPONSE

This is in response to the Official Action mailed June 17, 2005.

Claims 1-23 are unobvious over the combination of Havre et al. (US6,466,211) in view of Rao et al. (US6,085,202) under 35 USC 103(a).

The present claimed invention involves displaying the proportion contributed by each element as an area within an ordered set of areas under a line representative of the total value of time dependent variable i.e. the sum of the proportions, and manipulating the contributing elements by either hiding, or redisplaying each element or by reordering the positions of the contributing elements under the total graph line. For Example, XXX Inc. has sales in Austin, Houston and Dallas over a given period of time. The individual sales in each of the three cities are time dependent variables. The respective sales are elements that, when totalled, provide the total sales of XXX, which is itself a time dependent variable. In accordance with the present invention, the graphs of individual sales in each of the three cities may also be manipulated by either hiding, or redisplaying each element or by reordering the positions of the individual sales in each of the three.

Claim 1 (representative independent claim.) is shown below with the sections which are not suggested by the Havre reference underlined.

AUS920030627US1

2

PATENT
10/728,165

"1. A computer implemented user interactive method for graphically displaying the proportion of a total value of a time dependent variable contributed by each of a set of elements comprising the steps of:

displaying the proportion contributed by each element as an area within an ordered set of areas under a line representative of the total value of said time dependent variable;

enabling the user to interactively select one of said set of areas; and

performing a selected operation selected from the group consisting of hiding the selected area, displaying the selected area and reordering the position of the selected area within said ordered set responsive to said user selection."

About the only thing that Havre has in common with this independent claim is that Havre does show time dependent line graphs, each showing the totals of individual variables e.g., the frequency with which Castro used each of certain individual terms: "cane", or "weapons", or "Brazil" in his speeches over a period of time. Beyond this, the reference lacks all of the other elements of Applicants' claims. There is no line in Havre representative of the total value of the respective variables to which the numbers of the respective elements add up to, e.g. a total sales to which the elements, the sales for each city contribute. In the Havre example, the total of the individual values of the use of the three words "cane", and "weapons", and "Brazil" would have no significance as a combined total. They are apparently unrelated to each other. It is the individual totals of these words that are important, and not the sum of these individual total which is not even shown or discussed

AUS920030627US1

3

PATENT
10/728,165

in Havre. After all, Castro used a lot of other words in his lengthy speeches. Then as the Examiner admits, Havre does not teach manipulating the graphs of the contributing individual elements in the line graphs by either hiding and then displaying or reordering their positions.

With such a weak foundation for a 35 USC 103 rejection in the Havre reference, there is little that Rao can do to make up for the above deficiencies. Rao discloses a specific implementation in which graphical images may be rendered in tables of columns and rows for better defined presentation. While the columns and rows may be manipulated and reordered, nothing is suggested about the reordering and manipulation of the graphical images themselves or the elements making up the graphical images as in the present invention.

If anything, the Rao teaching would lead away from the present invention. Rao converts the visual graphic images into tables because his graphics can not be manipulated or reordered. Thus, the suggestion from Rao is that if you are to manipulate and reorder graphic images, you convert such images to a table format. This leads away from the present invention.

Therefore, Applicant submits that the proposed combination of Havre and Rao references is being made not with the requisite foresight of one skilled in the art, but rather with the hindsight obtained solely by the teaching of the present invention. This approach cannot be used to render Applicant's invention unpatentable.

What the Examiner has done is used Applicant's disclosure as a guideline, and the picked and combined elements from each of the Havre and Rao references based solely of Applicant's own teaching.

AUS920030627US1

4

PATENT
10/728,165

"To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art references of record convey nor suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." W. L. Gore, 721 F 2d at 1553, 220 USPQ, pp. 312-313.

"One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." In re Fine, 5 USPQ 2d 1596 (C.A.F.C.) 1988.

Accordingly, it is submitted that the suggestion for combining Havre and Rao in the manner proposed by the Examiner could only come from Applicants' own teaching, and, thus, cannot form any basis for a combination of references.

Furthermore, there is still nothing in the combination which would suggest the element of the present invention as set forth above: an ordered set of areas under a line representative of the total value of said time dependent variable.

In addition for being patentable for all of the reasons set forth hereinabove, specific claims 7, 14, and 21 may be even further distinguished from the combination of Havre in view of Rao. Claims 7, 14, and 21 define an implementation (illustrated by ordered icons 71, 72, 75 in Figs. 3 and 4 of the present Application) wherein a plurality of icons on the display each represent one of the individual areas; and the user may interactively reorder the position of the selected area by reordering the position of the selected icon representative of the selected area.

For this specific implementation, the Examiner points to thematic labels 49 in Havre. The sole purpose of these labels in Havre is to identify the layers in the graphs.

AUS920030627US1

PATENT
10/728,165

Insofar as Applicants can determine, these labels are not user-interactive for any purpose.

Applicants respectfully traverse the rejection of claims 21-23 under 35 U.S.C. 103(a) as being unpatentable over the combination of Havre and Rao as set forth above further in view of Yonts et al. (US6,590,577).

The Yonts Patent is Owned by the Assignee of the Present Application, and Thus Can Not Preclude Patentability Under 35 U.S.C. 103(c).

The present Application and the Yonts Patent reference were commonly owned by International Business Machines Corporation, the Assignee herein at the time the invention of the present Application was made.

The file of the present Application indicates that an Assignment of the present Application to said Assignee is filed in the Patent Office. Also the printed Yonts Patent indicates that it is assigned to the same Assignee.

Since the present Application has a filing date after November 29, 1999, and the Yonts Patent would qualify as prior art under the provisions of 35 U.S.C. 102(e), it is submitted that the Yonts patent can not be used to preclude patentability based upon 35 U.S.C. 103(c). [Examiner's attention is directed to MPEP Sections 706.02(1); (1)(1); (1)(2); and (1)(3)]. Accordingly, Examiner is respectfully requested to withdraw Yonts as a reference.

AUS920030627US1

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10/728,165

In view of the foregoing, claims 1-23 are submitted to be in condition for allowance, and such allowance is respectfully requested.

Respectfully submitted,

J. B. Kraft 9/16/05
J. B. Kraft
Attorney for Applicants
Registration No. 19,226
(512) 473-2303

ALL CORRESPONDENCE SHOULD BE DIRECTED TO:

Jeffrey S. LaBaw
IPLaw Dept. - IMAD 4054
IBM Corporation
11400 Burnet Road
Austin, Texas 78758

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7